



# MONTANA ASSOCIATION OF LAND TRUSTS

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## ASSOCIATION MEMBERSHIP

Bitter Root  
Land Trust,  
Hamilton  
406-375-0956

The  
Conservation  
Fund,  
Missoula  
541-8555

Five Valleys  
Land Trust,  
Missoula  
549-0755

Flathead  
Land Trust,  
Kalispell  
752-8293

Gallatin Valley  
Land Trust,  
Bozeman  
587-8404

Montana Land  
Reliance,  
Helena  
443-7027

The Nature  
Conservancy,  
Helena  
443-0303

Prickly Pear  
Land Trust,  
Helena  
442-0490

Rocky Mountain  
Elk Foundation,  
Missoula  
523-4533

The Trust  
for Public Land,  
Bozeman  
522-7450

Vital Ground  
Foundation,  
Missoula  
549-8650

March 26, 2007

Chairwoman Diane Rice  
House Judiciary Committee  
Montana House of Representatives

Dear Chairwoman Rice:

At the March 23, 2007 hearing in the House Judiciary Committee on Senate Bill 347 (Shockley; conservation easement enforcement), Representative Roger Koopman asked the Montana Association of Land Trusts to provide information to your committee about recreational public access to lands held under conservation easements.

The sources for the information that follows have been members of the Montana Association of Land Trusts, a late 2006 chart provided by the Montana Natural Heritage Program and the Legislative Audit Committee Report published in January 2007.

As I will explain later in this response, the figures contained in this response are approximate, particularly specific information about recreational access to private lands held in a conservation easement.

Also, the information must be presented in the context of two overarching goals and principles related to private land conservation and conservation easements.

The first goal and principle is that public access is but one benefit of conservation easements. The public benefits associated with easement are many, and varied.

On page 16 of the Legislative Audit Committee Report, the authors present a chart listing some of these public benefits. According to the chart, conservation easements in Montana protect: 641,797 acres of elk winter range; 31,611 acres of elk calving range; 2,410 acres of vital elk migration routes; 46,279 acres of antelope winter range; 22,810 acres of mountain goat habitat; 274,053 acres of moose winter range; 59,249 acres of bighorn sheep habitat; 94,008 acres of pheasant habitat; 205,084 acres of wild turkey habitat; 4,389 miles of stream and river corridors and 120 square miles of wetlands.

In addition to protecting important wildlife habitat, conservation easements conserve open lands and help working farms and ranches maintain viability. Conservation easements provide options to landowners and are a vital asset for those who seek to keep lands open and in agricultural production.

The second goal or principle related to private land conservation and conservation easements is that a typical conservation easement agreement does not require the landowner to surrender control of public access to the landowner's property.

The members of the Montana Association of Land Trusts take pride in their strong working relationship with agriculture producers, landowners and farm/ranch organizations. One reason for the positive relationship is the respect land trusts have for agricultural producers, private property rights and the demonstrated stewardship displayed by farmers and ranches. Another reason is in the vast majority of voluntarily negotiated conservation easements between a landowner and a land trust, the landowner retains the authority to control public access to the property. That right of landowner authority is a fundamental tenant in Montana's private land conservation success, legacy and future.

And this is also the primary reason why public access data for conservation easements is challenging to determine with accuracy. The conservation easement agreement does not require access, and does not prevent access. There are in the neighborhood of 1,200 individual conservation easements that exist in Montana right now, and the only way to know with certainty which easements do or do not allow public access is to contact each landowner separately and privately.

Obviously, that was not possible for this response. But through the sources referenced on page one of this response, I have been able to provide some "ballpark" figures pertinent to the requested information.

There are about 1,200 conservation easements in Montana that protect about 1.6 million acres of private lands. Of this total, approximately 956,000 acres are lands protected by easements held by members of the Montana Association of Land Trusts. Approximately 661,000 acres of lands are protected by state and federal agencies and other private organizations.

Based on the limited research conducted for this response, I can report with certainty that over 400,000 acres of easement properties offer some type of recreational public access, the majority of which are through the Habitat Montana Program at the Montana Department of Fish, Wildlife & Parks. There are some federal conservation easement programs through the US Fish & Wildlife Service (194,000 acres) and the US Natural Resource Conservation Service (72,516 acres) that may prohibit access, largely based on specific habitat needs of nesting waterfowl in sensitive areas and other precise resource/wildlife considerations.

The remaining roughly 900,000 acres under conservation easements in Montana may or may not provide public access. Some of those acres certainly do provide access; at least one easement property is even enrolled in the Montana Department of Fish, Wildlife & Parks Block Management Program. Other conservation easement acres – the majority of the 900,000 acres – do not provide access. Some are in between. Some landowners require a sign-in, sign-out, type of access arrangement, others provide access through an access corridor to other public lands, but may not allow the traditional full range of recreational access. Some allow walk-in access only. Public access arrangements on private lands held in easement are probably as varied as public access arrangements on private lands not held in easement.

It is important to note two other important points relative to this discussion. The first point is the quality of private and public lands some conservation easements provide access to. Let me cite one example. A 2006 conservation easement in the Madison Valley provides access to 1,521 acres of private land adjoining public land. The same easement allows for a trailhead to be built on private land for entry into the Lee Metcalf Wilderness, and also allows access to four miles of the fabled Madison River. That is one example of the access benefits of one easement, in an area where recreational access is treasured and at the same time declining.

The second point is that above and beyond their work on conservation easements, some members of the Montana Association of Land Trusts have dedicated resources toward enhancing and expanding community trail systems. As you likely know, one of the most valued attributes of any community is local walking/biking trails. In both Bozeman and Helena, local land trusts have diligently participated and led cooperative projects to identify, maintain and expand recreational trail systems. Each community can boast of over 50 miles of hiking/biking/horseback trails which greatly improve the quality of life in these communities, and land trusts deserve recognition for their efforts in these valuable programs.

Madam Chairwoman, I hope you and the members of your committee find this information useful. If I can provide additional information, or be of additional assistance, please let me know.

Sincerely,

A handwritten signature in black ink that reads "Glenn Marx". The signature is written in a cursive, flowing style.

Glenn Marx  
Executive Director  
Montana Association of Land Trusts

Cc: Senator Jim Shockley